

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION**

<b>IN RE:</b>	)	CASE NO. 10-02303-8-JRL
	)	
<b>JEFFREY N. PARE</b>	)	<b>CHAPTER 7 PROCEEDING</b>
<b>LAURA A. MORESCHI</b>	)	
	)	
<b>DEBTOR(S).</b>	)	

**MOTION TO DISMISS CHAPTER 7 PROCEEDING**  
**PURSUANT TO 11 U.S.C. § 707(b)(3)**

Now comes the Bankruptcy Administrator for the Eastern District of North Carolina and moves the Court for an order dismissing the debtors' Chapter 7 case pursuant to 11 U.S.C. § 707(b)(3). The Bankruptcy Administrator supports the motion in the following:

**GENERAL ALLEGATION AND JURISDICTION**

1. The debtors filed a voluntary petition for Chapter 7 relief on March 24, 2010. On April 22, 2010, the debtors appeared at the first meeting of creditors, and said meeting was held and concluded.

2. Bankruptcy Rule 1017(e) requires that a motion to dismiss case due to abuse pursuant to 11 U.S.C. § 707(b)(3) must be filed within 60 days of the date of the first scheduled § 341 meeting of creditors. This motion is timely filed pursuant to B.R. 1017(e).

**DEBTOR'S SCHEDULES, STATEMENT OF AFFAIRS AND FORM 22A**

3. Debtor's schedules state that she has \$847,774.00 of secured debts, \$0.00 of priority unsecured debts, and \$107,129.00 of non-priority unsecured debts. Debtor's debts are primarily consumer debts.

4. The debtors are married and have three dependent children. The debtors' household size is five.

5. On Schedule I of the debtors' petition, the male debtor states that he is employed as an engineer with Talecris Biotherapeutics. He states that he earns \$7,902.96 per month in gross wages. He deducts from his monthly wages the following: taxes (\$1,416.91); insurance (\$534.95); 401(k) contributions (\$790.29); and dependent savings account (\$416.67). The female debtor works seasonally and part-time. Her net earnings of \$273.31 per month will cease on April 15, 2010.

6. The Bankruptcy Administrator believes that the male debtor's income has been understated. Based on documents submitted to the Bankruptcy Administrator, the male debtor receives a performance pay bonus annually. He received a bonus of \$9,799.32 for 2009, and in January 2010, he received a performance pay bonus of \$9,761.00. The Bankruptcy Administrator believes that the bonus paid in 2010 should be prorated over twelve months and included in his Schedule I income. If applied, the debtor's Schedule J income would be \$8,711.00 gross per month.

7. The debtors' expenses on Schedule J appear to be abnormally excessive. The debtors deduct \$100.00 per month for housing maintenance. This amount appears to be excessive. The debtors deduct \$1,000.00 for food, \$200.00 for clothing, \$200.00 for recreation, and \$200.00 for emergencies/miscellaneous. These amounts appear unreasonable and excessive. Lastly, the debtors deduct \$508.00 per month for daycare. This amount appears to be deducted on Schedule I and should not be deducted again on Schedule J.

8. The debtors enjoy a stable source of income. They live comfortably. From the petition, one cannot determine any calamity or life altering event that caused this bankruptcy. With minor adjustments to their expenses, they could afford to pay a dividend to their unsecured creditors.

**BASIS FOR DISMISSAL**

9. The debtors' case should be dismissed pursuant to 11 U.S.C. § 707(b)(3)(B). The debtors' petition demonstrates that they have the ability to pay something to their creditors. The totality of the debtors' financial circumstances demonstrates abuse.

WHEREFORE, the Bankruptcy Administrator respectfully moves the court for entry of an order which grants dismissal the debtors' case pursuant to 11 U.S.C. § 707(b)(3); and any other relief that this court may deem just and equitable.

Respectfully submitted, this 15<sup>th</sup> day of June, 2010.

/s/ Marjorie K. Lynch  
Marjorie K. Lynch  
Bankruptcy Administrator

/s/ C. Scott Kirk  
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Bankruptcy Administrator  
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**CERTIFICATE OF SERVICE**

I, C. Scott Kirk, of P.O. Box 3758, Wilson, North Carolina, 27895-3758, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18)

That on the 15<sup>th</sup> day of June, 2010, I served copies of the foregoing document on the following:

John T. Orcutt  
Attorney for Debtor  
\*served electronically\*

David M. Warren  
Chapter 7 Trustee  
\*served electronically\*

by electronic service via cm/ecf, and

by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail on June 15, 2010 to the following:

Jeffrey N. Pare  
Laura A. Moreschi  
2500 Clerestory Place  
Raleigh, NC 27615

I certify under penalty of perjury that the foregoing is true and correct.

Dated this 15<sup>th</sup> day of June, 2010.

/s/ C. Scott Kirk  
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Bankruptcy Administrator  
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